IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/06/2003

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THE HON'BLE MR.JUSTICE P.D. DINAKARAN

Writ Petition No.41985 of 2002

R. Manoharan .. Petitioner

-Vs-

1. Syndicate Bank
rep. by the Chairman & Managing Director
Manipal 576 119.

2. General Manager - Personnel
Personnel Department
Syndicate Bank
Manipal 576 119. .. Respondent

For Petitioner : Mr.K. Chandru, S.C.
For Mr.R. Yashod Vardhan

For Respondents : Mr. Karthick
For M/s. T.S. Gopalan & Co.

:O R D E R

By proceedings of the second respondent dated 18.2.2002, impugned in the above writ petition, the petitioner was informed that his application under VRS 2000 Scheme is not accepted, as he is not eligible for the same as per Clause 3 of Eligibility criterion of Annexure I of the Syndicate Bank Employees' Voluntary Retirement Scheme.

2. Aggrieved by the said proceedings, the petitioner seeks a writ of Certiorarified Mandamus calling for the records in reference No.PD PAD GEN 2066 0087 244110 dated 18.2.2002 read with consequential order in ref.No.HD: PD: PAD (O): 0087:2345 dated 14.9.2002 and quash the said orders of the second respondent dated 18.2.2002 and 14.9.2002 and consequently direct the respondents to accept the application of the petitioner seeking voluntary retirement under Syndicate Bank Employees Voluntary Retirement Scheme 2000.

3. Clause 3 of Annexure I of the Syndicate Bank Employees' Voluntary Retirement Scheme reads as follows.
" Following Categories of employees are not eligible under this Scheme:

(1) ...
(2) ...
(3) Employees against whom Disciplinary Proceedings are contemplated/pending or are under suspension.
... "

4. The petitioner, of course, is not challenging the said disqualification. But, his specific complaint is that the said Clause is not attracted in his case, as neither any disciplinary proceedings is initiated or pending against the petitioner, nor the petitioner is under suspension for any other reason.

5. Mr.K. Chandru, learned senior counsel for the petitioner, emphasising the above aspect of the case and places reliance on the decision of the Apex Court in MANJUSHREE PATHAK v. ASSAM INDUSTRIAL DEVELOPMENT CORPN.

LTD. reported in AIR 2000 SC 2769.
6. The learned counsel for the respondents is not disputing the above factual aspects of the case.

7. Concededly, no disciplinary action is either contemplated or pending against the petitioner nor the petitioner is placed under suspension for any other reason. Therefore, Clause 3 of Eligibility criterion of Annexure I of the Syndicate Bank Employees' Voluntary Retirement Scheme, relied upon by the respondents is not attracted at all, as rightly pointed out by the learned senior counsel for the petitioner.

8. In MANJUSHREE PATHAK v. ASSAM INDUSTRIAL DEVELOPMENT CORPN. LTD. reported in AIR 2000 SC 2769, the Apex Court held that the application of the eligible employee seeking voluntary retirement in the form prescribed has to accepted with immediate effect and it cannot be refused in extraneous consideration and that the discretion to consider application has to be exercised judiciously.

9. Appreciating the contention of the learned senior counsel for the petitioner, in the light of the above rulings and the factual aspects of the case, I am unable to appreciate the reasons that weighed the respondents in refusing to entertain the application of the petitioner under the Syndicate Bank Employees' Voluntary Retirement Scheme. Hence, the impugned order stands quashed and the respondents are directed to pass appropriate orders on the application of the petitioner, on merits within eight weeks from today.

The writ petition is ordered accordingly. No costs. WPMP No.62010 of 2002 is closed.

Index : Yes
Internet: Yes

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